

105 CMR 260.000: PROHIBITION AGAINST CERTAIN FISHING IN NEW BEDFORD HARBOR

Section

- 260.001: Findings and Purpose
260.002: Emergency Promulgation
260.003: Authority
260.004: Adulterated Fish
260.005: Taking and/or Sale of Lobsters, and Certain Fish Prohibited

Site: NEW BEDFORD
Date: 17.8.3
Other: _____

260.001: Findings and Purpose

The chemical substances known as polychlorinated biphenyls (PCBs) have been discharged into the Acushnet River and are present in that river and in the New Bedford Harbor. Laboratory analyses of lobster and bottom-feeding fish caught in this area have revealed that PCBs are present in these food sources in levels that exceed the current maximum allowable levels (or "temporary tolerance") established by the Federal Food and Drug Administration under the Food and Drug Cosmetic Act, 21 U.S.C. 301, s. 346. Consumption of PCBs causes diseases deemed dangerous to the public health, namely PCB intoxication and carcinogenesis. These regulations are promulgated to prevent and control the incidence of such diseases among members of the general public, and to prevent the sale of adulterated food to the public.

260.002: Emergency Promulgation

PCBs settle to the floor of the body of water into which they are discharged; they may remain there for decades. Because lobsters and certain fish are bottom-feeders, they take in PCBs which remain in their bodies in unacceptably high concentrations. These food sources are currently being taken from contaminated areas (as described in 105 CMR 260.005 of these regulations) for primarily recreational and other noncommercial purposes and are being consumed by the public. Consumption of these food sources by humans poses an immediate and lasting threat to health. Further public consumption of these overly-contaminated food sources must be avoided by immediately preventing the taking, sale, and thereby the eating of such food sources caught in the contaminated area. Immediate adoption of these regulations is necessary for the preservation of the public health; observance of the requirements of notice and public hearing, generally required under the first paragraph of M.G.L. c. 30A, s. 2 prior to the promulgation of regulations, would be, in this situation, contrary to the public interest.

260.003: Authority

These regulations are promulgated under authority of M.G.L. c. 111, s. 5 and 6, M.G.L. c. 94, s. 186 and 192, M.G.L. c. 30A, s. 2.

260.004: Adulterated Fish

Fish, containing levels of PCBs exceeding the maximum allowable level (or "temporary tolerance") of PCBs established by the Federal Food and Drug Administration for the edible portion of such food sources are adulterated within the meaning of M.G.L. c. 94, s. 186, first paragraph under food. Such food sources caught in the contaminated area are presumed to be contaminated.

260.005: Taking and/or Sale of Lobsters and Certain Fish Prohibited

260.005: continued

(1) No person shall take and/or sell any fish (except bait fish), lobster or shellfish from the area of New Bedford Harbor (Area I) described below:

The waters north of the Hurricane Dyke in New Bedford Harbor.

(2) No person shall take and/or sell any lobster or bottomfeeding fish (including eels, scup, flounder and tautog) from the area of New Bedford Harbor (Area II) described below:

The waters generally south of area I and north of a line extending from Ricketson's Point in South Dartmouth westerly to Wilbur Point on Sconticut Neck.

(3) No person shall take and/or sell lobsters from the area of New Bedford Harbor (Area III) described below:

The waters generally south of area II and north of a line extending from Mishaum Point on Smith Neck in the town of Dartmouth north and west to Gong "3" on Hursett Rock off New Bedford Harbor and continuous north and west to Rocky Point on West Island in the town of Fairhaven.

105 CMR 260.000: PROHIBITION AGAINST CERTAIN FISHING IN NEW BEDFORD HARBOR

Section

- 260.001: Findings and Purpose
- 260.002: Emergency Promulgation
- 260.003: Authority
- 260.004: Adulterated Fish
- 260.005: Taking and/or Sale of Lobsters, and Certain Fish Prohibited

U.S. v. AVX Original
Litigation Document260.001: Findings and Purpose

The chemical substances known as polychlorinated biphenyls (PCBs) have been discharged into the Acushnet River and are present in that river and in the New Bedford Harbor. Laboratory analyses of lobster and bottom-feeding fish caught in this area have revealed that PCBs are present in these food sources in levels that exceed the current maximum allowable levels (or "temporary tolerance") established by the Federal Food and Drug Administration under the Food and Drug Cosmetic Act, 21 U.S.C. 301, s. 346. Consumption of PCBs causes diseases deemed dangerous to the public health, namely PCB intoxication and carcinogenesis. These regulations are promulgated to prevent and control the incidence of such diseases among members of the general public, and to prevent the sale of adulterated food to the public.

260.002: Emergency Promulgation

PCBs settle to the floor of the body of water into which they are discharged; they may remain there for decades. Because lobsters and certain fish are bottom-feeders, they take in PCBs which remain in their bodies in unacceptably high concentrations. These food sources are currently being taken from contaminated areas (as described in 105 CMR 260.005 of these regulations) for primarily recreational and other noncommercial purposes and are being consumed by the public. Consumption of these food sources by humans poses an immediate and lasting threat to health. Further public consumption of these overly-contaminated food sources must be avoided by immediately preventing the taking, sale, and thereby the eating of such food sources caught in the contaminated area. Immediate adoption of these regulations is necessary for the preservation of the public health; observance of the requirements of notice and public hearing, generally required under the first paragraph of M.G.L. c. 30A, s. 2 prior to the promulgation of regulations, would be, in this situation, contrary to the public interest.

260.003: Authority

These regulations are promulgated under authority of M.G.L. c. 111, s. 5 and 6, M.G.L. c. 94, s. 186 and 192, M.G.L. c. 30A, s. 2.

260.004: Adulterated Fish

Fish, containing levels of PCBs exceeding the maximum allowable level (or "temporary tolerance") of PCBs established by the Federal Food and Drug Administration for the edible portion of such food sources are adulterated within the meaning of M.G.L. c. 94, s. 186, first paragraph under food. Such food sources caught in the contaminated area are presumed to be contaminated.

260.005: Taking and/or Sale of Lobsters and Certain Fish Prohibited

260.005: continued

(1) No person shall take and/or sell any fish (except bait fish), lobster or shellfish from the area of New Bedford Harbor (Area I) described below:

The waters north of the Hurricane Dyke in New Bedford Harbor.

(2) No person shall take and/or sell any lobster or bottomfeeding fish (including eels, scup, flounder and tautog) from the area of New Bedford Harbor (Area II) described below:

The waters generally south of area I and north of a line extending from Ricketson's Point in South Dartmouth westerly to Wilbur Point on Sconticut Neck.

(3) No person shall take and/or sell lobsters from the area of New Bedford Harbor (Area III) described below:

The waters generally south of area II and north of a line extending from Mishaum Point on Smith Neck in the town of Dartmouth north and west to Gong "3" on Hursett Rock off New Bedford Harbor and continuous north and west to Rocky Point on West Island in the town of Fairhaven.

105 CDR 260.000: PROHIBITION AGAINST CERTAIN FISHING IN NEW BEDFORD HARBOR

260.001 Findings and Purpose
260.002 Emergency Promulgation
260.003 Authority
260.004 Adulterated Fish
260.005 Taking and/or Sale of Lobsters, and Certain Fish Prohibited

The chemical substances known as polychlorinated biphenyls (PCBs) have been discharged into the Acushnet River and are present in that river and in the New Bedford Harbor. Laboratory analyses of lobster and bottom-feeding fish caught in this area have revealed that PCBs are present in these food sources in levels that exceed the current maximum allowable levels (or "temporary tolerance") established by the Federal Food and Drug Administration under the Food and Drug Cosmetic Act, 21 U.S.C. 301, s.346. Consumption of PCBs causes diseases deemed dangerous to the public health, namely PCB intoxication and carcinogenesis. These regulations are promulgated to prevent and control the incidence of such diseases among members of the general public, and to prevent the sale of adulterated food to the public.

PCBs settle to the floor of the body of water into which they are discharged; they may remain there for decades. Because lobsters and certain fish are bottom-feeders, they take in PCBs which remain in their bodies in unacceptably high concentrations. These food sources are currently being taken from contaminated areas (as described in 260.005 of these regulations) for primarily recreational and other noncommercial purposes and are being consumed by the public. Consumption of these food sources by humans poses an immediate and lasting threat to health. Further public consumption of these overly-contaminated food sources must be avoided by immediately preventing the taking, sale, and thereby the eating of such food sources caught in the contaminated area. Immediate adoption of these regulations is necessary for the preservation of the public health; observance of the requirements of notice and public hearing, generally required under the first paragraph of G.L. c.3CA, s.2 prior to the promulgation of regulations, would be, in this situation, contrary to the public interest.

XSA011

1251

NOTICE: If the film image is less clear than this notice, it is due to the quality of the document being filmed

105 CMR: DEPARTMENT OF PUBLIC HEALTH

260.003: Authority

These regulations are promulgated under authority of G.L. c.111, ss.5 and 6, G.L. c.94, ss.186 and 192, G.L. c.30A, s.2.

260.004: Adulterated Fish

Fish, containing levels of PCBs exceeding the maximum allowable level (or "temporary tolerance") of PCBs established by the Federal Food and Drug Administration for the edible portion of such food sources are adulterated within the meaning of G.L. c.94, s.186, first paragraph under food. Such food sources caught in the contaminated area are presumed to be contaminated.

260.005: Taking and/or Sale of Lobsters and Certain Fish Prohibited

(1) No person shall take and/or sell any fish (except bait fish), lobster or shellfish from the area of New Bedford Harbor (Area I) described below:

The waters north of the Hurricane Dyke in New Bedford Harbor.

(2) No person shall take and/or sell any lobster or bottom-feeding fish (including eels, scup, flounder and tautog) from the area of New Bedford Harbor (Area II) described below;

The waters generally south of area I and north of a line extending from Ricketson's Point in South Dartmouth westerly to Wilbur Point on Sciticut Neck.

(3) No person shall take and/or sell lobsters from the area of New Bedford Harbor (Area III) described below:

The waters generally south of area II and north of a line extending from Mishaum Point on Smith Neck in the town of Dartmouth north and west to Cong "J" on Hursett Rock off New Bedford Harbor and continuous north and west to Rocky Point on West Island in the town of Fairhaven.

07887- SCARABEUS FILE
18 DGC, LDC of
PL 1102 District Health Planning
Criteria. Planning Unit 512E

XSA011

11 12 15 17

NOTICE: If the film image is less clear than this notice, it is due to the quality of the document being filmed

01987- SCAGMADHIGRAFLIN
TO DRG LUG OFF
FL JED PMSAD HNGR KPMNNG
CUSTEN PLBMM INCL SI IN

XSA011

75311

260.005:

(4) Map of New Bedford Harbor Outlining Areas I, II and III

